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## PRE-APPEAL BRIEF REQUEST FOR REVIEW

Docket Number (Optional)

020011

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Application Number

10/051,048

Filed

January 22, 2002

First Named Inventor

Noriaki ABE

Art Unit

3685

Examiner

Charles C. Agwumezie

Applicant requests review of the final rejection in the above-identified application. No amendments are being filed with this request.

This request is being filed with a notice of appeal.

The review is requested for the reason(s) stated on the attached sheet(s).

Note: No more than five (5) pages may be provided.

I am the

☐ applicant/inventor.

☐ assignee of record of the entire interest.  
See 37 CFR 3.71. Statement under 37 CFR 3.73(b) is enclosed.  
(Form PTO/SB/96)

☒ attorney or agent of record.  
Registration number 57,485

☐ attorney or agent acting under 37 CFR 1.34.

Registration number if acting under 37 CFR 1.34 \_\_\_\_\_

Signature

Joseph W. Iskra

Typed or printed name

202-822-1100

Telephone number

January 14, 2009

Date

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☒

\*Total of 1 forms are submitted.

This collection of information is required by 35 U.S.C. 132. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11, 1.14 and 41.6. This collection is estimated to take 12 minutes to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop AF, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re the Application of: **Noriaki ABE et al.**

Art Unit: **3685**

Application Number: **10/051,048**

Examiner: **Charles C. Agwumezie**

Filed: **January 22, 2002**

Confirmation Number: **1723**

For: **METHOD AND SYSTEM FOR PROVIDING SECONDHAND ARTICLE  
INFORMATION**

Attorney Docket Number: **020011**

Customer Number: **38834**

**PRE-APPEAL BRIEF REQUEST FOR REVIEW**

Mail Stop: AF

Date: January 14, 2009

Commissioner for Patents

P. O. Box 1450

Alexandria, VA 22313-1450

Sir:

This Request is filed concurrent with a Notice of Appeal in compliance with 37 C.F.R.

§41.31. Applicants request review of the final rejection in the above-identified application. No amendments are being filed with this request.

Claims 1-4, 6-7 and 19-34 are currently pending. Of these pending claims, claims 1-4, 6-7 and 19-34 are rejected and form the basis for this Pre-Appeal Brief Request for Review. It is submitted that the Examiner has made a clear error in asserting that the combination of Finch, Worger and Kerkinni establish a *prima facie* case of obviousness in teaching each and every feature set forth in claims 1-4, 6-7 and 19-26, as stipulated in the final Office Action dated October 15, 2008.

Claims 1-4, 6-7, and 19-26 stand rejected under 35 U.S.C. §103(a) as being unpatentable over Finch, US 6,850,902, in view of Worger et al., US 5,664,113 and further in view of Kerkinni, US 2002/0107833 A1.

Independent claims 1 and 19

It is respectfully submitted that the cited art fails to describe or teach at least the recitation of claim 1 of, “a total operating hours determining step in which total operating hours by usage field for said each construction machine are determined based on the usage field data and the operating data for said each construction machine included in the usage data.”

A construction machine can be used in a plurality of usage fields (i.e., job field in which the construction machine is used), such as, for example, “civil engineering, construction”, “demolition”, “quarrying, mining”, and “agriculture”. In general, average amount of working loads which applied to a construction machine during the same working time length is different in those different usage fields (job fields). For example, usually, large amount of work loads in “demolition” field is applied than work loads in “agriculture” field. This means that damage level of a construction machine is different in different usage field. Therefore, Applicants can predict that a construction machine which was used only in “demolition” field for 1,000 hours would be more damaged than other construction machine which was only used in “agriculture” field for 1000 hours.

One of the features of claim 1 and 19 is determining the total operating hours in each of the usage fields for each construction machine. Another feature of claim 1 and 19 is displaying identification information of every usage field and the determined total operating hours in each of the usage fields on a display and providing the display to a customer.

By viewing the display of the present application, when a customer wants to select a construction machine, the customer finds out the total operating hours in each of the usage fields

of each of the construction machines A and B. Therefore, for example, if total operating hours in “demolition” field of the constructions machine A and total operating hours in “agriculture” field of construction machine B are equal, and total operating hours in the other fields of construction machine A and B are zero, the customer will understand the damage level of construction machine A and B are different, and this helps his or her in making a better selection.

Kerkinni describes usage information report in Fig 10. The report displays the usage information such as odometer readings of the vehicle, personal miles, total miles, percent personal miles, personal credits, and beginning and ending dates of the reporting period. But, the report never displays the total operating hours in each of the usage fields. Therefore, a person having ordinary skill in the art cannot arrive at the embodiments described in the present application by incorporating Kerkinni’s teaching into Finch’s invention.

It is respectfully submitted that the cited art fails to describe or teach at least the recitation of claim 19 of, “determining total operating hours by usage field for said each construction machine based on the usage field data construction machine and the operating data for said each construction machine included in the usage data.” The comments present above regarding independent claim 1 are applicable toward independent claim 19 where appropriate.

Also, the various dependent claims (e.g., claims 2-4, 6, 7, 20, 21 and 24) which depend respectively from independent claims 1 and 19 are patentable for at least the reason of their dependency therefrom.

Independent claims 22 and 25

It is respectfully submitted that the cited art fails to describe or teach at least the recitation of claim 22 of, “a total operating hours determining step in which total operating hours by attachment being attached to each construction machine are determined based on the attachment data and the operating data included in the usage data.”

A construction machine can be attached to one or more attachments. Attachments, in general, can be attached and detached to construction machines. If an attachment attached to a construction machine has been used for a long time, the attachment is damaged and needs to be replaced with a new one.

One of the features of claim 22 and 25 is determining total operating hours in each of the attachments being attached to each construction machine. Another feature of claim 22 and 25 is displaying identification information of said one or more attachments and the total operating hours in each of the attachments on a display and providing the display to a customer.

By viewing the display of the present invention, when a customer wants to select a construction machine, the customer finds out the total operating hours in each of the attachments. Therefore, the customer will understand which attachment is damaged and needs to be replaced.

As mentioned above, Kerkinni describes usage information report. But the report never displays the total operating hours in each of the attachments. Therefore, a person having ordinary skills in the art would not be motivated to arrive at the embodiments of the present application by incorporating Kerkinni’s teaching into Finch’s invention.

Also, it is respectfully submitted that the cited art fails to describe or teach at least the recitation of claim 25 of, “determining total operating hours by attachment being attached to each

construction machine based on the attachment data for said each construction machine and the operating data for said each construction machined included in the usage data.”

Further, the dependent claims (23 and 26) are patentable for at least the reason of their dependency from their respective independent claims.

Claims 3 and 20 stand rejected over 35 U.S.C. 103(a) as being unpatentable over Finch in view of Worger et al. and Kerkinni and further in view of Ukai (US 2003/0191581). Further, claim 6 stands rejected under 35 U.S.C. 103(a) as being unpatentable over Finch in view of Worger et al and further in view of Kerkinni and further in view of Rose (US 6,076,064).

Because claims 3, 6 and 20 depend from either independent claim 1 or 19, said claims are patentable for at least the reason of their dependency. It is submitted that Ukai and Rose fail to remedy the deficiencies of the combination of Finch, Worger and Kerkinni.

If this paper is not timely filed, Applicants respectfully petition for an appropriate extension of time. The fees for such an extension or any other fees that may be due with respect to this paper may be charged to Deposit Account No. 50-2866.

Respectfully submitted,

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